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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

THOMAS E. HARPER and DIANE KEENE,  
 Individually and On Behalf of All Others  
 Similarly Situated,

Plaintiffs,

vs.

SMART TECHNOLOGIES, INC., DAVID A.  
 MARTIN, NANCY L. KNOWLTON, G.A.  
 FITCH, SALIM NATHOO, ARVIND  
 SODHANI, INTEL CORPORATION, APAX  
 PARTNERS, MORGAN STANLEY & CO.  
 INC., DEUTSCHE BANK AG, and RBC  
 DOMINION SECURITIES INC,

Defendants.

Case No. 11 CV 5232 (SBA)

Assigned to: Hon. Sandra Brown Armstrong

**DEFENDANTS' NOTICE OF PENDENCY  
 OF OTHER ACTIONS OR PROCEEDINGS**

Date: March 13, 2012

Time: 1:00 P.M.

Place: Courtroom 1, 4th Floor

1 **TO THE COURT AND TO PLAINTIFFS:**

2 Pursuant to United States District Court for the Northern District of California Local Rule 3-  
3 13, Defendants hereby give notice that the above-captioned action involves all or a material part of  
4 the same subject matter and all or substantially all of the same parties as the following action and  
5 proceeding, pending in the U.S. District Court for the Southern District of New York:

- 6 • ***McKenna v. SMART Technologies, Inc.*, No. 11 CV 07673 (S.D.N.Y. filed Jan. 26,**  
7 **2011) (“McKenna”).** On January 26, 2011, plaintiff Thomas McKenna filed a putative  
8 class action in U.S. District Court for the Northern District of Illinois on behalf of the  
9 purchasers of SMART Technologies, Inc. (“SMART”) common stock pursuant to  
10 SMART’s July 2010 Initial Public Offering (“IPO”). The putative class in *McKenna* is  
11 identical to the putative class in the above-captioned action. As in the above-captioned  
12 action, Mr. McKenna asserted claims under the Securities Act of 1933 based upon  
13 alleged materially false and misleading statements in the Registration Statement and  
14 Prospectus issued in connection with the IPO. On March 15, 2011, the defendants in  
15 *McKenna*, who are substantially the same parties in the above-captioned action, moved to  
16 transfer that action, in the interest of convenience for the parties and witnesses, to the  
17 U.S. District Court for the Southern District of New York. On June 16, 2011, the  
18 *McKenna* court appointed a lead plaintiff and approved the lead plaintiff’s selection of  
19 lead counsel pursuant to the Private Securities Litigation Reform Act (“PSLRA”). On  
20 October 17, 2011, the *McKenna* court granted the defendants’ motion and transferred the  
21 action to the Southern District of New York, where it is pending before Hon. Katherine  
22 B. Forrest.<sup>1</sup>

23 In light of the duplicative nature of the two actions, and in an effort to avoid (1) placing an  
24 unnecessary burden on the federal judiciary and (2) the potential for conflicting judgments,  
25 Defendants are filing concurrently with this Court a motion to transfer the instant action to the

26 \_\_\_\_\_  
27 <sup>1</sup> Plaintiffs have incorrectly named Deutsche Bank AG as a defendant in this action, apparently in the belief that  
28 Deutsche Bank AG was an underwriter of the IPO. But Deutsche Bank AG had nothing to do with the IPO and should  
not be a defendant in this action — Deutsche Bank Securities Inc. (which is not named as a defendant in this action) was  
an underwriter of the IPO.

Southern District of New York or, in the alternative, to dismiss or stay the instant action.

DATED: November 8, 2011

Respectfully submitted,

SIDLEY AUSTIN LLP

/s/ SARA B. BRODY

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